

**THE COMMON COUNCIL OF THE CIVIL CITY OF NEW ALBANY,
INDIANA, WILL HOLD A WORK SESSION IN THE THIRD FLOOR
ASSEMBLY ROOM OF THE CITY/COUNTY BUILDING ON THURSDAY,
MARCH 20, 2008 AT 6:00 P.M.**

MEMBERS PRESENT: Council Members Mr. Coffey, Mr. Caesar, Mr. Price, Mr. McLaughlin, Mrs. Benedetti, Mr. Gonder, Mr. Messer, Mr. Zurschmiede and President Jeff Gahan.

Jeff Gahan called the meeting to order at 6:02 p.m. and explained that they were here to discuss a presentation by Baker & Daniels LLP regarding tax abatement eligibility in the state of Indiana.

Mr. Pittman with Baker & Daniels thanked the council for their time and for inviting him and explained a little about his firm in Indianapolis and stated that he works with between 40-50 cities throughout the state. He referenced the two handouts that he passed out to the council and stated that he wanted to talk a little about what the legislature has already done. He began by talking about property tax abatements and gave a brief history on the subject stating that more than 35 states across the nation have some type of tax abatement programs although they may vary from state to state. He went over the outline in great detail with the council explaining the different types of properties and equipment that are or are not eligible for abatements. Said handout is on file with the City Clerks office.

Mr. McLaughlin asked about new machine/equipment that is brought in from some place like Indianapolis.

Mr. Pittman said that would not be eligible.

Mr. Gahan stated that most abatements are between five and ten years but for a computer it wouldn't be reasonable for 5-10 years.

Mr. Pittman stated the law now allows the body to specify the abatement anywhere from one to ten years and for equipment such as a computer you would normally go for the shorter period of time.

Mr. Pittman went over the types of property that is not eligible for tax abatements. He stated that retail is the area that causes a lot of confusion among abatements and generally the rule is a retail facility is not eligible with the exception of a facility that is located in an "economic development target area" that is limited in size to 15% of the total area. He moved on to discuss the length of tax abatements and stated that it is up to the designated body to assign anywhere between one to ten years which is very policy driven.

Mr. Malysz stated that typically the council has gone with the 10 year length of time.

Mr. Gahan stated that they have not yet defined new information technology equipment which is one of the newer things they are allowed to issue abatements for.

Mr. Pittman discussed the process for granting tax abatements and asked Mr. Malysz what the process was for applying for these abatements.

Mr. Malysz stated that they have two approaches which include predetermined areas such as ERA's and they have handled freelance (?) requests.

Mr. Pittman stated that a declaratory resolution narrows the scope of the area for an abatement in that if it is determined to be "undesirable for or impossible of, normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors which have impaired values or prevent a normal development of property or use of property." He stated that strictly speaking they should only be giving abatements to areas whose features make it appropriate to offer help but he realized that this is not a criterion that is used in most places.

Mr. Coffey referenced Spring Street Hill and stated that it is a more affluent area and will take a lot of money and he asked if they could still find a way to do this.

Mr. Pittman stated that if there is lack of development that is sometimes pretty flexible criterion.

Mr. Coffey stated that this does allow them to do some things they didn't know they could do.

Mr. Malysz stated that abatements are given with the intent to increase economic development or new development so he is not really sure what Mr. Coffey is talking about with the Spring Street Hill area.

Mr. Pittman stated that you would only use this category if you were determined to get a tax break for someone coming in where no money gets generated that the local government can do anything with. He discussed the statement of benefits explaining that an applicant must get this statement to the designated body before development begins and it must be approved by the appointed body. He then went over the deductions to an application

Mr. Caesar asked if there was any rule of thumb that would state this would be good for the City.

Mr. Pittman stated that they are policies in place and went over several considerations that would favor granting a tax abatement including stimulation of economic growth. He stated that if you do not offer tax abatements it is likely that neighboring cities will and that puts pressure on them to do the same.

Mr. Malysz explained that they do have an established fee schedule and it might be something that they want to look at in the near future and amend. He stated that the statute now recognizes something beyond the fees and just paying a process which is a strategy to have business kick back some of their tax savings to other economic purposes.

Mr. Coffey asked if an individual wanted to build a building on a plot of ground if they still pay the same amount in taxes on the ground but it is just the building that gets the abatement and they aren't losing money by issuing the abatement but gaining it.

Mr. Pittman stated that was correct in part but at worse losing the opportunity to increase the tax base. He explained that the Federal Government is giving less and less incentives and giving less funding to the cities which puts more of a burden on the municipalities to provide these incentives for businesses to move in. He also discussed the fairness issues of giving tax abatements and the uncertainty of the cost of tax abatements and whether or not the jobs will be created that they would hope for from giving the abatement. He stated that another negative of tax abatements is that many times the abatement is not necessarily what will bring companies to the city but they look more to the factors of the cost of real estate, the type of city that you have, the work force available, or the quality of the schools.

Mr. Gahan asked what process of follow-up is being done on the CF-1's to see if they are meeting their standards.

Mr. Rosenbarger stated that they do not go out and inspect whether or not the companies are doing what they certify on their CF-1. He asked Mr. Pittman if that is being done in other cities.

Mr. Pittman stated that is not done in other cities either.

Mr. Rosenbarger asked what is to be done when a business sells to someone else and they have an existing abatement.

Mr. Pittman stated that they assume the tax abatement where it exists at that time.

Mr. McLaughlin asked about the abatements that someone has received on an expansion of their business.

Mr. Pittman stated that it is the same.

Mr. Coffey asked if what they are saying is that they should start taking a closer look at what someone is asking for abatements for.

Mr. Rosenbarger stated he doesn't take that certification lightly when they sign verifying that something is true.

Mr. Coffey stated that it might be a better idea to have them thirty days in advance so that a council member can have a chance to go out and look at them, just for all new abatements.

Mr. McLaughlin stated that it worries him to go out along and look at these things ____ but it sounds like they are leaning towards pro-abatement and if they go in and research it too much might deter businesses as much as not having them at all.

Mr. Gonder asked Mr. Rosenbarger if he had the names of any companies that have abused the tax abatements.

Mr. Rosenbarger stated that he wouldn't say abuse but 10-15 years ago there was a local company that received abatement for equipment and then relocated to Texas shortly after but he is not aware of any company that is taking advantages of tax abatements.

Mr. Price stated that he read a study from IU that states that cities are giving tax abatements with a lack of focus and that there are a lot of cities that have policies that tier the abatement based on the number of employers and limit the number of years.

Mr. Pittman stated that one of the considerations to think about when implementing a policy that is too strict is whether or not you want new business to move into your city.

Mr. Rosenbarger stated when you are in the same labor market as other cities and you do not give tax abatements you will hurt your chances of new economic developments and place yourself at a disadvantage competition wise.

Mr. Coffey stated that they are not looking to do away with tax abatements they just want to set policy in order to give the abatements in a fairer manor that will not affect the City in an adverse way.

Mr. Rosenbarger stated that he would not recommend giving the two year abatements because it will lower the assessed value which will be adverse to the city.

Mr. Gahan asked if there was a study that shows where the city stands on tax abatements compared to other local cities.

Mr. Rosenbarger stated that because Clarksville has very little industry they do not have tax abatements but that Jeffersonville and Charlestown do. He stated that they should form a committee to look at whether or not they want to do a tier system.

Mr. Gonder asked about tax abatements for the rehabilitation of a building.

Mr. Pittman stated that they mean if you are expanding and raising the value of the property you can grant the abatement.

Mr. Coffey stated that they have a lot of businesses downtown that are mostly retail and he wanted to know how or if tax abatements work on these areas.

Mr. Pittman stated that in order to get any abatement it has to be because they are increasing their assessed value and if it were retail it would have to be in that special type of area that requires specific circumstances.

Mr. Pittman stated that the Redevelopment and TIF laws have been changed and will go into affect starting July 1. He went over a memo highlighting the State law changes to TIF. Said memo is on file with the City Clerk's office. He stated that you will not be able to expand a TIF district unless you can prove that it is necessary in order to complete the project that the district was established for. He explained that TIF district debts and durations can only be 25 years rather than 30.

Mr. Coffey asked if he could go back to the TIF and wanted to know if they could no longer earmark monies for projects outside of the TIF district.

Mr. Pittman stated that they still can but they can't earmark it for things outside the district that aren't physically _____.

Mr. Price asked Mr. Pittman what would be the reasoning for cutting the duration back to 25 years.

Mr. Pittman stated that is it probably for tax relief.

Mr. Rosenbarger stated that the handout he was giving out was the TIF policy handbook from 2003 and any law that has been passed since 2003 will not be reflected here of course but this is an excellent background to get the council up to speed.

Mr. Coffey stated that they adopted this in 2003 but this is the first time he has ever seen it.

Ms. Wisman stated that they are unable to find a resolution where this was adopted by the council so she has questions as to whether or not it ever was.

ADJOURN:

There being no further business to be heard, the meeting adjourned at 7:10 p.m.

Jeff Gahan, President
Common Council, City of New Albany

ATTEST: _____
Marcey Wisman, City Clerk